

CHAPTER 6

FORMULATING AN IMPLEMENTATION PLAN

The implementation plan defines a strategy for moving the program from the planning phase to the operating phase. The information developed in the operations plan and financial plan defines how the program will be funded and who will design, build, and operate the facilities. The implementation plan specifies when these actions will occur and what additional tasks need to be accomplished to construct the facility and establish a workable management program. These additional tasks are likely to include:

1. Developing new legislation, ordinances, and regulations.
2. Negotiating and preparing operating agreements and procedures.
3. Reorganizing or modifying existing agencies; establishing a new agency.
4. Obtaining easements.
5. Staffing and training (or contracting).
6. Public education.
7. Building the facility.

The implementation plan utilizes information prepared in the financial and operations plan to develop a strategy for successful program operation.

The first section of this chapter describes the appropriate steps to be taken in preparing an implementation plan. The second section of this chapter, "Institutional Options for Plan Implementation," offers several institutional options for developing and carrying out the implementation plan. The institutional alternatives are intended to provide a mechanism to over-

come some of the common administrative and political obstacles faced by small communities in implementing wastewater management projects. These options should be considered in the initial phases of facility planning as a means of coordinating and directing various planning activities.

GUIDE TO IMPLEMENTATION PLAN FORMULATION

The process of preparing an implementation plan originates early in facility planning. Plan implementation starts with the task of involving appropriate public officials and private interests in the process of defining wastewater management problems and evaluating alternative solutions. It continues through to the formulation of the management plan, refinement of institutional plan recommendations, and construction of the wastewater facility and organization of the management program itself.

The steps involved in preparing an implementation plan, as expressed in this section, are listed below:

Step 1 -- Define management agency roles and responsibilities.

Step 2 -- Develop a mechanism to carry out assigned responsibilities. Prepare a timetable for completion of tasks.

Step 3 -- Establish procedures for providing short- and long-term program evaluations.

A discussion of these steps follows.

Step 1: Define the roles and responsibilities of all participating entities in performing management functions.

The roles and responsibilities of various public and private entities to carry out wastewater system design, construction, operation, and financing activities have been defined in the operations and financial plans. The first activity in implementation plan formulation is to identify all major program participants and their responsibilities in a single framework.

As noted in Step 3 of Chapter 3, in order to expedite program implementation, it is important that local government, state and local regulatory agencies, funding agencies, and the general public participate in the planning process, and are all in agreement with program objectives.

Table 58 presents a format for displaying roles and responsibilities of participating entities, along with initial financial requirements, for a prescribed planning period. Entries along the side of the table identify participating entities in the management program. Column entities specify their responsibilities, applicable funding sources, and allocation of future costs on an annual basis. Table 59, on the other hand, lists potential roles of state agencies to support and complement local management efforts.

Step 2: Develop a mechanism to carry out assigned management responsibilities. Prepare a timetable for the completion of tasks.

There are many activities that must be accomplished in carrying out the recommendations of the operations and financial plans. While these responsibilities are assigned to one or more entities (as shown in Table 58), a method for carrying out these responsibilities should be developed in the implementation plan. Essentially, there are three basic tasks to be performed, for which an institutional arrangement must be developed to ensure their proper implementation:

1. Setting up the management program framework and structure (i.e., designating management agencies).
2. Obtaining legal approvals and agreements.
3. Designing and constructing wastewater facilities and developing administrative policies for system operations.

Table 60 presents a description of some of the major elements of the three implementation tasks. It is important that the timetable prepared in this phase of the planning process accurately reflect these implementation tasks and prerequisite activities in the proper sequence.

Alternative institutional arrangements for assisting communities in developing implementation mechanisms are described in the section in this chapter, "Institutional Options for Plan Implementation."

Step 3: Establish procedures for providing short- and long-term program evaluations.

The management agency should be cognizant of the need to periodically reevaluate its program activities and respond to changing demands and service requirements. The effectiveness of a management program will be ultimately determined by the ability of participating agencies to enforce regulations and to carry out field inspections and system maintenance activities. A formal system of conducting periodic reviews and evaluations of field personnel performance, wastewater facility performance, and water quality changes should be prepared and utilized by the program managers at both the state and local levels. Table 61 proposes a set of performance criteria which can be applied by program managers and directors to evaluate progress through the operational phase.

A work plan for continuing evaluation should be prepared to support the management agency designations and objectives of the program.

TABLE 58. SUMMARY OF MANAGEMENT PROGRAM ENTITIES AND RESPONSIBILITIES

<u>Managing Entity</u> ¹	<u>Description of Responsibilities</u> ²	<u>Management Functions</u> ³	<u>Source of Funding</u> ⁴	<u>Years</u> ⁵				
				1	2	3	4	5... 20

SAMPLE FORMAT

- ¹Identify participating entities.
- ²Describe (generally) the roles and responsibilities of managing entities, and their jurisdictions.
- ³List applicable specific management functions (e.g., administration, system construction, system inspections, system repairs, planning, operation and maintenance, etc.)
- ⁴Identify sources of funding (e.g., service fees, user charges, local taxes, Federal grants, etc.). Annual budgets, grant and loan amounts, etc. could also be included, if desired.
- ⁵Identify planning period. Years can be specified on an annual basis or at intervals (e.g., 3 to 5 years).

TABLE 59. POTENTIAL STATE ROLES IN MANAGEMENT PLAN IMPLEMENTATION AND PROGRAM FORMULATION	
1.	Establish regulations regarding approval, design, and installation of conventional and alternative small flows systems.
a.	Clarify state/local responsibilities for review and approval of plans and standards setting and streamline review procedures where possible.
b.	Improve criteria for site suitability determinations and design methods to facilitate optimal systems.
c.	Make regulations performance-oriented; promote and expedite the utilization of appropriate treatment, collection, and disposal methods by elimination of arbitrary and restrictive standards and codes.
2.	Coordinate with areawide and state nondesignated water quality management planning efforts regarding on-site problem analysis and policy recommendations.
3.	Adopt state enabling legislation and propose amendments as necessary to facilitate alternative local management arrangements.
4.	Provide technical and institutional assistance and guidance as appropriate to engineering consultants and local officials regarding consideration of small flow systems and institutional alternatives (through state policy, model ordinances, assistance in preparing grant applications, participation in management entity organizational meetings, and preparation of planning guidelines and model approaches).
5.	Conduct training sessions for private sector representatives involved in wastewater system design, installation, and maintenance. License and certify private contractors as required.
6.	Support demonstration projects, research and development studies, and field testing of technology to promote the implementation of improved small system technologies.
7.	Provide financial assistance in the form of monetary support for capital construction and operational costs and/or in the form of administrative assistance in development of the financial plan, bond marketing, or grant priority alteration.

TABLE 60. TYPICAL IMPLEMENTATION ACTIVITIES		
Major Task	Task Activities	Comments
Establish Management Program Framework and Structure	1. Adopt charters, by-laws, and rules and regulations, including those governing wastewater system design, installation and operation.	Depending on the institutional approach selected, new or modified state legislation, local ordinances, and regulations may be necessary to implement the management program. Where appropriate, the community may wish to enlist the assistance of other agencies in drafting or obtaining support for necessary legislation.
	2. Designate management agencies and coordinate with state utility commission.	
	3. Set up a board of directors or identify an existing entity as a governing body to establish program policies and to serve as the principal decision-making authority for the management agency.	
	4. Select corporate officers or program managers to supervise day-to-day activities.	
	5. Hold public meetings and referenda as required by state law in order to adopt the recommended organizational structure.	
	6. Develop regulatory, billing, and monitoring program methods in concert with state utility commission.	
	7. Define organizational interrelationships.	
Obtain Legal Approvals and Agreements	1. Permits for surface-water discharge, system operation, and construction.	Obtaining permits for the construction and operation of wastewater systems should be done in conjunction with the system design process. If proper consideration of applicable state and local laws and regulations is made early in the planning phase, securing these permits should be fairly straightforward. If questions of regulatory compliance remain unresolved at this point, considerable delays can result.
	2. Access easements.	
	3. Service agreements for facilities construction.	
	4. Operational arrangements.	
	5. Letters of intent and interlocal agreements from designated agencies.	
	6. Operational performance requirements.	
	7. Property owner/management agency responsibility and liability.	

TABLE 60. (CONTINUED)

Major Task	Task Activities	Comments
Design and Construction of Wastewater Facilities/Developing Administration Policies For System Operation	<ol style="list-style-type: none"> 1. Coordination with engineer on the preparation of engineering plans and specifications. 2. Review and approve design drawings. 3. Secure construction funds (grants, loans, bonds, etc.). 4. Inspect materials and equipment supplied by contractors and manufacturers for compliance with specifications. 5. Prepare bid package. 6. Review contractor bids. 7. Contract negotiations with contractors during contract procurement, and throughout construction period. 8. Review and approve payment requests from contractors and subcontractors. 9. Perform periodic site inspection. 10. Hire and train staff. 11. Acquire office space and equipment. 12. Finalize system operation and maintenance arrangements, including construction of new and rehabilitation of failing systems during the operations period. 13. Finalize organizational interrelationships, roles, and responsibilities. 14. Conduct final system inspection. 15. Start up system and program. 	Problems which occur during the construction phase of a project are of particular concern because it is the most expensive phase of the plan implementation process. It is crucial that the lead management agency closely monitor progress throughout the facility design and construction process, especially during the construction phase, to assure budgetary and quality control. Since the lead agency in most cases will be responsible for system operation, its operating staff should be well acquainted with the physical layout and overall design of the the system. This requires maintaining day-to-day contact with the engineer and contractor during the entire construction stage.

TABLE 61. PROGRAM PERFORMANCE CRITERIA

- The following are general performance criteria that can be applied to evaluate short- and long-term program efficiency, productivity, and response to program objectives.
- Has the attitude of the management agency and its governing body towards enforcement of health/environmental regulations enhanced program operations and wastewater system performance?
 - Do the legislation and regulations being applied adequately address health and environmental needs?
 - Has the legal basis or statutory authority of participating agencies been altered? Does it need clarification or improvement?
 - Has the management program become overly complex? Are professional managers necessary?
 - Are the activities of participating entities being adequately coordinated?
 - Can the participating entities adapt to political and economic changes?
 - Does the public have an opportunity to comment on program accomplishments? Has the public been made aware of program activities and budgets during the operational phase?
 - Are the program directors sufficiently familiar with program activities, accomplishments, and responsibilities?
 - Are the field personnel adequately addressing problems, concerns, or questions from the service area residents?
 - Is the staff qualified to handle the work activities? Is job satisfaction provided by the position? Is the level of compensation consistent with prevailing wages? Is personnel advancement possible within the organizational structure?
 - Is the wastewater management program consistent with other plans, policies, and objectives of the area?
 - Are users able and willing to pay for program sources? Are additional funding mechanisms needed?
 - What has the impact of the management program been on community and program budgets?
 - Has the public health or water quality been protected or enhanced by the program? Are there other sources of health problems or water pollution problems that need to be addressed?

INSTITUTIONAL OPTIONS FOR PLAN IMPLEMENTATION

Performing the outlined implementation tasks and understanding the various aspects of the planning and implementation process may be difficult for many small communities, especially those that do not maintain a professional staff. Assistance to local entities early in the planning process will help ensure that sound and conscious decisions are made regarding the selection of wastewater system technology, the assessment of institutional and financial requirements and capabilities, and adoption of proper system operation and maintenance practices.

In addition to available information transfer and grant pre-application meetings that are offered to small communities from Federal and state agencies, it may be necessary in some instances to designate an independent third-party advisor to assist small communities in facility planning and implementation activities. These third-party advisors could help small communities manage their grants, provide consultation during plan development, and train staff to perform system operation and maintenance activities.

Third-party advisors can be made available to small communities through the following state and local institutional arrangements:

1. Statewide assistance programs.
2. Local third-party advisory agreements.

Descriptions of these options are provided in this section. Because of the variations among states and local circumstances, the choice of how to provide third-party assistance will depend on the technical and fiscal resources available to states and small communities, and the abilities and preferences of persons involved in the facility planning and implementation process. The intent here is to make states and small communities aware of the institutional options available to them in assisting facility planners in the critical phases of plan preparation and implementation.

Statewide Assistance Programs

States will continue to assume an increasingly important role in allocating construction grants to substate entities in the future. As part of this role, states can offer technical and administrative assistance to small communities by:

1. Applying for financial assistance.
2. Preparing wastewater facility plans.
3. Implementing plan recommendations.

States can also offer assistance to small communities through:

1. State-employed specialists.
2. Private firms (contracted by a state agency).
3. A special agency to provide public service assistance throughout a state.

Table 62 outlines alternatives available to states to assist small communities that are having difficulty understanding and meeting the administrative and financial requirements of the construction grants program. It is expected that these options will be applied differently in each state, depending on the individual state's abilities, preferences, and organizational structure. Table 62 describes these alternatives in detail, and displays the advantages and disadvantages of each. Regardless of the precise option selected in any single situation, pre-application conferences with small community officials and special intermediate progress reviews by an appropriate state entity will help streamline the construction grants allocation process and ensure that communities apply functional technology suited to their needs and circumstances. Several examples of statewide assistance programs follow.

STATEWIDE PROGRAM ASSISTANCE ILLUSTRATION

Several states have adopted different organizational approaches to providing assistance to small communities. The activities of the States of New Hampshire, California, Maryland, New York, Pennsylvania, and Illinois offer examples of different small community assistance techniques.

The state advisory assistance alternative is essentially modeled after New Hampshire's approach to small community assistance. New Hampshire's program is based on a state law which authorizes the state Water Supply and Pollution Control Commission to negotiate engineering and construction contracts for all grantees within the state. This state agency has a group of professionals performing contract negotiations on behalf of small communities. The state's interest in construction grants administration, particularly to small communities, is reinforced by its 20 percent state share and the recent creation of the Division of Small Community Assistance, which assists small communities with financial and administrative aspects of the construction grants program.

TABLE 62. STATEWIDE ASSISTANCE PROGRAM ALTERNATIVES

Alternative	Description	Advantages	Disadvantages
State Advisory Assistance	A state agency would have a central staff to assist grantees. A state would negotiate contracts with private engineering/planning firms for all or certain specified small communities. States would prepare a "prequalified" list of consultants for small communities to review and screen. A state agency would negotiate with a few "screened" firms, and take an active role in Step 1 planning. A state agency would monitor progress during Steps 2 and 3.	<ol style="list-style-type: none">1. Simple process that is transferable to many states.2. Addresses a difficult problem faced by small communities -- contract negotiations.3. Central staff could be focal point of small community planning assistance for wastewater and other resource management activities.	<ol style="list-style-type: none">1. Effectiveness will depend on sensitivity of state/local political relations.2. May pose difficulty for contractors with both state and small communities in overseer role.3. Concept is most applicable to small states where close state/local relations could be maintained. (May be necessary to involve county or regional sub-state entities in coordinating or liaison role between state and small community.)
Corporate and Other Advisors	<p>A nonprofit corporation or similar statewide authority would be established to provide a wide range of services communities, including plan reviews, securing financial assistance, and monitoring the design, construction, and operation of the facilities.</p> <p>The corporation or authority could act as the community's agent in all matters, including applying for grants.</p>	<ol style="list-style-type: none">1. Corporation would have considerable flexibility in staffing and other administrative procedures.2. Corporation should be sensitive and responsive to local needs since its business depends on client requests.3. The experience of the corporation will help many communities.	<ol style="list-style-type: none">1. Initial start-up might be slow. (May begin with providing services for state-owned facilities at the beginning.)2. May require state subsidy to finance operations of the corporation.

TABLE 62. (CONTINUED)

Alternative	Description	Advantages	Disadvantages
Circuit Riders	<p>Specialists hired directly by state or under contract to state to assist in various aspects of wastewater facility planning, design, construction and operation.</p> <p>Specialists can be assigned to a fixed group of communities or be responsible for a specific area of the state. They could operate from regional offices or possibly from other substate agencies (e.g., regional or county planning agencies). The state could establish this concept under either a direct hiring or contract mechanism.</p>	<ol style="list-style-type: none">1. Easy to implement in states with regional offices.2. Provides greater potential for direct, regular, and personal contact with appropriate local officials.3. Opportunity exists for providing state assistance to localities on a wide variety of environmental and resource management issues.	<ol style="list-style-type: none">1. Could be costly in a large, sparsely populated state.2. Problem of coordination between circuits.3. Decentralizes state expertise. Periodic central coordination is necessary.
State-Contracted Advisors	<p>Private contractors hired by state could conduct site visits to small communities to assess community needs and provide appropriate assistance. The state would not directly assist small communities.</p> <p>"Level-of-effort" contracts could be established between state and the contractor. State could hire a single contractor to serve the state, or a group of contractors allocated to different areas of the state.</p>	<ol style="list-style-type: none">1. Provides greater flexibility in hiring and travel funding through the use of contractors.2. Assistance could be provided on an "as-needed" basis to specific communities and for specific needs.3. Part of the costs could be grant-eligible under Step 1.4. Numerous contractors with small community assistance exist.	<ol style="list-style-type: none">1. Could cause conflicts between state-contractor and community-consultant.2. Issues regarding "who pays" and "how much" need to be worked out before community accepts assistance.3. Burden on state for contractor monitoring and coordination.

Source: Adapted from "Options for Third-Party Management of Construction Grants for Small Communities," Preliminary Concept Paper, U.S. Environmental Protection Agency, 5 September 1980. (Part of the 1990 Construction Grants Strategy background papers.)

STATEWIDE PROGRAM ASSISTANCE ILLUSTRATION (CONTINUED)

The State of California has also accomplished a great deal in the area of small community assistance. The state Water Resources Control Board has established an "alternative systems unit" within the grants program to offer advice on facility plans and to identify research needs for small wastewater systems. This unit has also helped to sponsor demonstration and research projects on various wastewater management approaches in the state.

The corporate and other advisors alternative is modelled after the Maryland Environmental Service (MES), a statewide public utility corporation which can enter into agreements with communities to design, construct, and operate water and wastewater treatment projects in Maryland. MES is just now beginning to assist small communities with planning and design of treatment projects, through a recent agreement with the State Department of Health. New York State has a similar nonprofit corporation with similar authority -- the Environmental Facilities Corporation.

The circuit rider alternative is being attempted in the State of Pennsylvania. For this state, seven regional offices provide the primary state assistance to local communities on all matters concerning wastewater management. The role of the regional offices is being intensified to create greater state sensitivity and responsiveness to local problems.

The State of Illinois Environmental Protection Agency has adopted a unique approach to facility plan review to provide more consistent decision-making within the state, and to eliminate "red-tape" and confusion concerning state policies by local governments. The Illinois EPA has created an "Innovative and Alternative Technology Design Standards and Review Panel" to develop design standards for small wastewater systems, and review facility plans where innovative and alternative technology are appropriate.

Local Third-Party Advisory Agreements

Local communities can initiate agreements with private or public entities on their own for assistance in wastewater facility planning, design, construction, and operations monitoring activities. Small communities generally do not have the necessary funds to hire specialized management consultants, however, certain alternatives are available to most small communities to obtain proper assistance and guidance in facilities planning and plan implementation tasks. These alternatives include:

1. Locally-contracted advisors (e.g., private consultants).
2. Substate agency advisors (e.g., regional and county agencies, cooperative extension services, etc.).

Table 63 presents some of these alternatives, with their major advantages and disadvantages. As shown in the table, with certain modifications to the basic concepts, the local third-party agreements could be implemented statewide. Examples of third party agreements include the following:

LOCAL THIRD-PARTY ADVISORY AGREEMENT ILLUSTRATION

The community of Stinson Beach, California, had followed an approach similar to the locally contracted advisors alternative in preparing and implementing its on-site management plan. A professor at a state university was contracted by the Stinson Beach County Water District (the management agency for the on-site wastewater program) to serve as an advisor throughout the long planning, evaluation, and plan implementation period. This consultant assisted in the plan of study preparation, consultant selection for the facility planning work, and work progress reporting. He remains a consultant to the local management agency, and provides expertise in program evaluation and operation.

Many small communities have used the services of county and regional planning to provide assistance on wastewater management concerns, primarily through the

TABLE 63. LOCAL THIRD-PARTY ADVISORY AGREEMENT ALTERNATIVES

Alternative	Description	Advantages	Disadvantages
Local-Contracted Advisors	Similar to state-contracted advisors alternative in Table 62. In this instance, a community would retain a consultant directly to provide overall contract management assistance. Local contractor could prepare a plan of study, provide advice on contracting other private firms and establish implementation mechanisms.	<ol style="list-style-type: none">1. Offers community flexibility in selecting consultant and managing consultant activities.2. Provide opportunity for assuring sensitivity and responsibility to local needs.3. Cost-sharing under Step 1 may be possible.4. Brings expertise directly to community officials.	<ol style="list-style-type: none">1. Potential for conflict of interest if contractor also becomes directly involved in performing facility planning and design studies. (A clear understanding of roles and responsibilities is necessary at the outset.)2. Specialized assistance to small communities may be expensive. Large private firms may not be interested in providing management assistance without limited financial opportunities (i.e., limited direct work in planning and design).
Substate Agency Advisors	Substate agencies (e.g., regional or county planning agencies, or county extension service or soil conservation service personnel) could provide assistance to small communities on an "as-needed" basis. Assistance can be provided for a wide variety of activities depending on need and available agency expertise. Concept is similar to circuit-riders (Table 62). Therefore, it could be implemented and funded on a statewide basis.	<ol style="list-style-type: none">1. Utilize available expertise at the substate level without creating larger "state" role.2. These substate entities are currently involved in small community assistance. Sensitivity exists for coordination with other small community planning activities.3. Agency personnel may be better able to relate to small community needs. Since they are not state employees, sensitive state/local relations would not be exacerbated.	<ol style="list-style-type: none">1. Possible fiscal and manpower limitations exist for these substate entities to assume additional responsibilities.2. Level of expertise in wastewater management may be limited. (Training and information transfer for Federal and state agencies can help to alleviate this problem.)

LOCAL THIRD-PARTY ADVISORY AGREEMENT
ILLUSTRATION (CONTINUED)

areawide water quality management planning process. Both designated and nondesignated areawide agencies have assumed direct and indirect roles in preparing facility plans, conducting training and information transfer programs, and implementing wastewater management programs for a variety of community needs.

A recent pilot wastewater management study completed by the Delaware Department of Natural Resources and Environmental Control (DNREC) and its consultant (Roy F. Weston, Inc.) for two small towns (approximately 500 homes) in southern Delaware has demonstrated the critical role a County Extension Service agent can play in the facility planning process. In this instance, the Extension Service agent, at the request of the two towns, served as a liaison to the state agency and consultant, and as a spokesman for the communities involved in the facility planning process. The Extension Service agent gave the communities a sense of assurance that the planning process was sensitive to local needs and resident capabilities.

PART III: APPENDIX

The appendix is a compendium of useful information to persons setting up management programs. Examples of ordinances, other regulatory materials, and a bibliography are included.

The appendix is divided into three sections, as follows:

1. Sample enabling legislation for on-site and small community management agencies.
2. Example service agreements for management agency/homeowner arrangements.
3. Bibliography.

These materials are provided to assist in addressing an important issue for small wastewater systems planning, that of relying on facilities (pumps or septic tanks) that are located on private property as a permanent wastewater disposal method.

PART I INTRODUCTION AND GENERAL GUIDANCE (Overview For Interested Readers)

PART II ANALYSIS METHODOLOGY (Technical Reference For Active Users)

PART III APPENDIX (Working Materials)

SECTION III-1

SAMPLE ENABLING LEGISLATION

Several states have developed and adopted special legislation to create local entities to manage small wastewater systems. The following list is a sample of the range of legislation prepared to date:

1. State legislation expanding the authority of certain public entities to assume on-site management responsibilities. (State of California Senate Bill No. 430, On-Site Wastewater Disposal Zones.)
2. Model ordinance for establishing county management programs. (On-site wastewater management districts in Iowa.)
3. Guidelines for establishing on-site management programs pursuant to special state legislation. (State of Washington, Department of Health and Social Services, Guidelines for the Formation and Operation of On-Site Waste Management Systems.)

Existing state legislation should be closely examined to determine whether sufficient legal authority already exists to provide the management functions defined by the sample legislation.

STATE OF CALIFORNIA
SENATE BILL NO. 430
ON-SITE WASTEWATER DISPOSAL ZONES

Senate Bill No. 430

CHAPTER 1125

An act to add Chapter 3 (commencing with Section 6950) to Part 2 of Division 6 of the Health and Safety Code, relating to on-site wastewater disposal zones.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

LEGISLATIVE COUNSEL'S DIGEST

SB 430, Behr. On-site wastewater disposal zones.

Existing law empowers certain public entities to acquire, construct, maintain, and operate sanitary sewers and sewerage systems. Such powers do not include the power to manage and control septic tank and septic systems and otherwise perform on-site wastewater disposal functions.

This bill would empower a public agency, as specified, and upon notice and hearing, and if such public agency is empowered to acquire, construct, maintain, and operate sanitary sewers and sewerage systems, to form on-site wastewater disposal zones pursuant to the provisions of the bill, to collect, treat, reclaim, and dispose of wastewater without the use of sanitary sewers or sewerage systems, as specified, and to adopt and enforce rules and regulations for the purposes of such zones, to abate violations of such rules and regulations, and to charge for such abatement, as specified.

The bill would authorize an assessment for benefit upon the real property in the zone, as determined by the board and by an election of the voters in the zone, for the purposes of the zone. Such assessment would be in addition to any other charges, assessments or taxes levied on property in the zone by the public agency.

This bill would provide that, notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor appropriation made by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3 (commencing with Section 6950) is added to Part 2 of Division 6 of the Health and Safety Code, to read:

CHAPTER 3. ON-SITE WASTEWATER DISPOSAL ZONES

Article 1. Definitions

6950. "Board" or "board of directors" means the governing authority of a public agency.

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6951. "Public agency" means a city or any district or other political subdivision of the state which is otherwise authorized to acquire, construct, maintain, or operate sanitary sewers or sewerage systems.

"Public agency" does not mean an improvement district organized pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code), or the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000), Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500), Streets and Highways Code), or a county maintenance district.

6952. "On-site wastewater disposal system" means any of several works, facilities, devices, or other mechanisms used to collect, treat, reclaim, or dispose of waste water without the use of community-wide sanitary sewers or sewerage systems.

6953. "Zone" means an on-site wastewater disposal zone formed pursuant to this chapter.

6954. "Real property" means both land and improvements to land which benefit, directly or indirectly from, or on behalf of, the activities of the zone.

Article 2. Formation

6955. Whenever the board of directors of a public agency deems it necessary to form an on-site wastewater disposal zone in all or a portion of the public agency's jurisdiction, the board shall by resolution declare that it intends to form such a zone.

6956. The resolution of intention shall also state:

(a) A description of the boundaries of the territory proposed to be included within the zone. The description may be accompanied by a map showing such boundaries.

(b) The public benefit to be derived from the establishment of such a zone.

(c) A description of the proposed types of on-site wastewater disposal systems and a proposed plan for wastewater disposal.

(d) The number of residential units and commercial users in the proposed zone which the public agency proposes to serve.

(e) The proposed means of financing the operations of the zone.

(f) The time and place for a hearing by the board on the question of the formation and extent of the proposed zone, and the question of the number and type of the residential units and commercial units that the public agency proposes to serve in the proposed zone.

(g) That at such time and place any interested persons will be heard.

6956.5. The resolution of intention shall be filed for record in the office of the county recorder of the county in which all or the greater portion of the land in the proposed zone is situated.

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6957. (a) A proposal to form a zone within a public agency may also be initiated by filing a petition with the board. Such a petition shall contain all the matters specified in subdivisions (a), (b), (c), and (d) of Section 6956. Such a petition shall be signed as provided in either of the following:

(1) By not less than 10 percent of the voters who reside within the territory proposed to be included within the zone.

(2) By not less than 10 percent of the number of owners of real property, including both land and improvements to land, within the territory proposed to be included within the zone who also own not less than 10 percent of the assessed value of the real property within such territory.

(b) Each signer of a petition shall add to his or her signature, the date of signing. If the signer is signing the petition as a voter, he or she shall add to his or her signature his or her place of residence, giving street and number, or a designation sufficient to enable the place of residence to be readily ascertained. If the signer is signing the petition as an owner of real property, he or she shall add to his or her signature a description of the real property owned by him or her sufficient to identify the real property.

(c) Following certification of the petition, the board shall set the time and place of the hearing on the question of the formation of the proposed zone.

6958. (a) Notice of the hearing shall be given by publishing a copy of the resolution of intention or the petition, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing in a newspaper circulated in the public agency.

(b) Notice of the hearing shall also be given to the local health officer, the board of supervisors, the governing body of any other public agency within the boundaries of the proposed zone, the governing body of any public agency whose sphere of influence, as determined pursuant to the provisions of Section 54774 of the Government Code, includes the proposed zone, the affected local agency formation commission, and the regional water quality control board in whose jurisdiction the proposed zone lies.

6959. The hearing by the board on the question of the formation of the proposed zone shall be no less than 45 days nor more than 60 days from adoption of a resolution of intention or the receipt of a petition containing a sufficient number of signatures.

6960. After receiving notice pursuant to subdivision (b) of Section 6958, a local health officer shall review the proposed formation and report his or her findings in writing to the board of directors of the public agency. The report shall specify the maximum number, type, volume, and location of on-site wastewater disposal systems which could be operated within the proposed zone without individually or collectively, directly or indirectly, resulting in a nuisance or hazard to public health. The local health officer may require from the public agency such information as may be

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reasonably necessary to make the findings required in this section.

6960.1. After receiving notice pursuant to subdivision (b) of Section 6958, the affected regional water quality control board shall review the proposed formation and report its findings in writing to the board of directors of the public agency. The report shall specify the maximum number, type, volume, and location of on-site wastewater disposal systems which could be operated within the proposed zone without individually or collectively, directly or indirectly, resulting in a pollution or nuisance, or adversely affecting water quality. The regional water quality control board may require from the public agency such information as may be reasonably necessary to make the findings required in this section.

6960.2. The number, type, volume, and location of on-site wastewater disposal systems to be operated within the zone shall not exceed the number specified pursuant to either Section 6960 or Section 6960.1.

6960.3. The formation of an on-site wastewater disposal zone shall be subject to review and approval by a local agency formation commission which has adopted rules and regulations affecting the functions and services of special districts pursuant to Article 4 (commencing with Section 54850) of Chapter 6.5 of Part 1 of Division 2 of Title 5 of the Government Code.

6960.4. Prior to any decision on the question of the formation of the proposed zone, the board shall obtain approval for the proposed plan for wastewater disposal from the affected regional water quality control board if such plan involves the disposal of wastewater to a wastewater treatment facility. For any other method of wastewater disposal, and prior to any decision, the board shall obtain approval for the proposed plan from the local health officer and the affected regional water quality control board. The affected regional water quality control board or the local health officer shall not approve any plan which does not comply with applicable requirements of federal, state, regional, or local law, order, regulation, or rule relating to water pollution, the disposal of waste, or public health.

6961. At the time and place fixed in the resolution of intention or the petition, or at any time or place to which the hearing is adjourned, any interested person may appear and present any matters material to the questions set forth in the resolution of intention or the petition. At the hearing the board shall also hear the reports of any local health officer, and any public agency with statutory responsibilities for setting water quality standards, regarding any matters material to the questions set forth in the resolution of intention or the petition.

6962. At the hearing the board shall also hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed. Any person who shall have filed a written protest may withdraw the same at any time prior to the conclusion of the hearing. The board shall have the following powers and duties:

2 430 115 63

(a) To exclude any territory proposed to be included in a zone when the board finds that such territory will not be benefited by becoming a part of such zone.

(b) To include any additional territory in a proposed zone when the board finds that such territory will be benefited by becoming a part of such zone.

6963. At the close of the hearing the board shall find and declare by resolution that written protests, filed and not withdrawn prior to the conclusion of the hearing, represent one of the following:

(a) Less than 35 percent of either of the following:
 (1) The number of voters who reside in the proposed zone.
 (2) The number of owners of real property in the proposed zone who also own not less than 35 percent of the assessed value of the real property within the proposed zone.

(b) Not less than 35 percent but less than 50 percent of either of the following:

(1) The number of voters who reside in the proposed zone.
 (2) The number of owners of real property in the proposed zone who also own not less than 35 percent but less than 50 percent of the assessed value of the real property within the proposed zone.

(c) Not less than 50 percent of either of the following:

(1) The number of voters who reside in the proposed zone.
 (2) The number of owners of real property in the proposed zone who also own not less than 50 percent of the assessed value of the real property within the proposed zone.

6964. If the number of written protests filed and not withdrawn is the number described in subdivision (c) of Section 6963, the board shall abandon any further proceedings on the question of forming a proposed zone.

6965. If the number of written protests filed and not withdrawn is the number described in subdivision (a) of Section 6963, the board shall find and declare by resolution all of the following:

(a) A description of the exterior boundaries of the proposed zone.
 (b) The number of on-site wastewater disposal systems which the public agency proposes to acquire, operate, maintain, or monitor.
 (c) That the operation of the proposed zone will not result in land uses that are not consistent with applicable general plans, zoning ordinances, or other land use regulations.

6966. The board may order the formation of the zone either without election or subject to confirmation by the voters upon the question of such formation. However, the board shall not order any such formation without an election if the number of written protests filed and not withdrawn is a number described in subdivision (b) of Section 6963.

6967. If the board does not order the formation of the proposed zone, an election on the question shall be conducted if, within 30 days of the date upon which the board did not order the formation, the board receives a petition requesting such an election signed by

either of the following:

(a) Not less than 35 percent of the voters who reside within the territory proposed to be included within the zone.

(b) Not less than 35 percent of the number of owners of real property within the territory proposed to be included within the zone who also own not less than 35 percent of the assessed value of the real property within such territory.

6968. Any election conducted pursuant to the provisions of this chapter shall be conducted pursuant to the provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500), Division 12, Elections Code).

6969. After the canvass of returns of any election on the question of forming a proposed zone, the board shall adopt a resolution ordering the formation of the zone if a majority of votes cast at such election are in favor of such formation.

6970. No public agency shall form a zone which includes any territory already included within another zone.

6971. No public agency shall form a zone if such formation will permit other land uses which are not consistent with the general plans, zoning ordinances, or other land use regulations of any county or city within which the proposed zone is located.

6972. After the formation of the zone pursuant to this article, all taxes levied to carry out the purposes of the zone shall be levied exclusively upon the property taxable in the zone by the public agency.

6973. If the board does not form a zone after the close of a hearing in accordance with Section 6967 and no petition is filed pursuant to Section 6967, or if the board abandons proceedings on the proposal to form a zone, or if the formation of a zone is not confirmed by the voters, no further proceeding shall be taken thereon. No application for a subsequent proposal involving any of the same territory and undertaken pursuant to the provisions of this chapter shall be considered or acted upon by the public agency for at least one year after the date of disapproval of, abandonment of, or election on the proceedings.

Article 3. Powers

6975. An on-site wastewater disposal zone may be formed to achieve water quality objectives set by regional water quality control boards, to protect existing and future beneficial water uses, protect public health, and to prevent and abate nuisances. Whenever an on-site wastewater disposal zone has been formed pursuant to this chapter, the public agency shall have the powers set forth in this article, which powers shall be in addition to any other powers provided by law. A public agency shall exercise its powers on behalf of a zone.

6976. An on-site waste water disposal zone shall have the

following powers:

(a) To collect, treat, reclaim, or dispose of waste water without the use of sanitary sewers or community sewage systems and without degrading water quality within or outside the zone.

(b) To acquire, design, own, construct, install, operate, monitor, inspect, and maintain on-site wastewater disposal systems, not to exceed the number of systems specified pursuant to either Section 6960 or Section 6960.1, within the zone in a manner which will promote water quality, prevent the pollution, waste, and contamination of water, and abate nuisances.

(c) To conduct investigations, make analyses, and monitor conditions with regard to water quality within the zone.

(d) To adopt and enforce reasonable rules and regulations necessary to implement the purposes of the zone. Such rules and regulations may be adopted only after the board conducts a public hearing after giving public notice pursuant to Section 6066 of the Government Code.

6977. The district shall immediately do all such acts as are reasonably necessary to secure compliance with any federal, state, regional, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material within the area of the district. For such purpose, any authorized representative of the district, upon presentation of his credentials, or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1422.50) of Part 3 of the Code of Civil Procedure, shall have the right of entry to any premises on which a water pollution, waste, or contamination source, including, but not limited to, septic tanks, is located for the purpose of inspecting such source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

6978. (a) Violation of any of the provisions of a rule or regulation adopted pursuant to subdivision (d) of Section 6976 may be abated as a public nuisance by the board. The board may by regulation establish a procedure for the abatement of such a nuisance and to assess the cost of such abatement to the violator. If the violator maintains the nuisance upon real property in which he has a fee title interest, the assessment shall constitute a lien upon such real property in the manner provided in subdivision (b).

(b) The amount of any costs, which are incurred by the zone in abating such a nuisance upon real property, shall be assessed to such real property and shall be added to, and become part of, the annual taxes next levied upon the real property subject to abatement and shall constitute a lien upon that real property as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the collection and enforcement of county ad valorem taxes shall be applicable to such assessment, except that if

any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which such delinquent charges appear on the assessment roll, then a lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection. Any amounts of such assessments collected are to be credited to the funds of the zone from which the costs of abatement were expended.

6979. (a) The owner of any real property upon which is located an on-site wastewater disposal system, which system is subject to abatement as a public nuisance by the zone, may request the zone to replace or repair, as necessary, such system. If replacement or repair is feasible, the board may provide for the necessary replacement or repair work.

(b) The person or persons employed by the board to do the work shall have a lien, subject to the provisions of subdivision (b) of Section 6978, for work done and materials furnished, and the work done and materials furnished shall be deemed to have been done and furnished at the request of the owner. The zone, in the discretion of the board, may pay all, or any part, of the cost or price of the work done and materials furnished; and, to the extent that the zone pays the cost or price of the work done and materials furnished, the zone shall succeed to and have all the rights, including, but not limited to, the lien, of such person or persons employed to do the work against the real property and the owner.

6980. A board may exercise all of the public agency's existing financial powers on behalf of a zone, excepting that any assessment or tax levied upon the real property of a zone shall be subject to the provisions of Sections 6978 and 6981.

6981. Notwithstanding any other provision of law, a public agency may levy an assessment reasonably proportional to the benefits derived from the zone, as determined by the board, and the voters pursuant to the provisions of Article 6 (commencing with Section 2285) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code. Such benefit assessment shall be in addition to any other charges, assessments, or taxes otherwise levied by the public agency upon the property in the zone.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act because this act will be applied under limited circumstances and when so applied the requirements of the act will not result in significant identifiable increased costs.

ON-SITE WASTEWATER MANAGEMENT
DISTRICTS -- IOWA

Section 2. Application of Ordinance

The procedures in this ordinance shall be used by the Board of Supervisors of _____ county, Iowa, for the establishment and operation of on-site wastewater management districts in this county.

Section 3. Purpose

The purposes of this ordinance are:

- A. To insure the proper operation of the on-site wastewater treatment systems in order to protect the public health, water quality and the environment.
- B. To allow for the use of the more high maintenance, innovative or alternative on-site wastewater treatment systems where "conventional" on-site systems are not appropriate.

Section 4. Definitions

"On-site wastewater treatment system" means any works or facilities used to collect, treat, reclaim or dispose of domestic wastewater on-site from individual dwellings or buildings or a cluster of two or more dwellings or buildings.

A "conventional wastewater treatment system" means any septic tank with a non-presurized subsurface soil absorption field or bed.

Section 5. District Boundaries

The on-site wastewater management district will be responsible for the design, construction, repair, operation and maintenance of all on-site wastewater treatment systems within (specify all or a portion of county).

Section 6. Extension of District Boundaries

The boundaries of any on-site wastewater management district established on passage of this ordinance may be extended by amending Section 5. An extension need not be contiguous to the existing district.

Section 7. Administration

Upon establishment of a district, the county board of health (or county engineer, or specified board of trustees) shall assume the powers and duties provided under this ordinance.

Section 8. Management Program

- A. The administration shall develop a detailed management program for the district.
- B. The administration shall also develop reasonable rules and regulations necessary to implement the purposes of this ordinance.
- C. The adoption of the management program and the rules and regulations shall be by resolution of the county board of supervisors.

Section 9. Powers and Duties

The administration may:

- A. Collect, treat, reclaim and dispose of wastewater without degrading the water quality within or outside of the district.
- B. Acquire, design, own, construct, install, operate, monitor, inspect and maintain on-site wastewater treatment systems within the district in a manner which will protect public health, promote water quality, prevent pollution and abate nuisances.

C. Employ and terminate the employment of those employees necessary to operate and maintain the detailed management plan, and contract with any firm or agency to perform necessary services.

D. Incur indebtedness, and impose and collect assessments for improvements where appropriate, as provided by state law, to implement the purposes of this ordinance.

Section 10. Inspections

The administration's authorized representative may, with the consent of the owner or occupant, enter any premises in the district on which a wastewater treatment system is located for the purpose of inspecting the system, securing samples or records, or making repairs. If the owner or occupant refuses admittance there to, or if prior to such refusal, the authorized representative demonstrates the necessity for a warrant, the authorized representative may make application under oath or affirmation, to the district court for issuance of a search warrant.

Section 11. Costs

The administration shall establish a service fee schedule to recover the operating and administration costs of the district. The costs of serving particular properties shall be paid by the owners of those properties benefited. Failure to pay a service fee when due shall create a lien against the property as provided by state law.

Section 12. Enforcement

A violation of a rule adopted pursuant to Section 8 of this ordinance shall constitute a simple misdemeanor.

Section 13. Severability Clause

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 14. When Effective

This ordinance shall be effective after its final passage, approval and publication as provided by law.

GUIDELINES FOR THE FORMATION AND OPERATION
OF ON-SITE MANAGEMENT SYSTEMS

In accordance with the provisions of WAC 248-96-070(4) the following Guidelines set forth the minimum provisions to be incorporated into any On-site Waste Management System established in satisfaction of the requirements of WAC 248-96-070(3). Unless authorized by the Washington State Department of Ecology, these guidelines shall not apply to facilities constructed or operated in accordance with a waste discharge permit issued by that Department.

A. Definitions: In addition to those definitions set forth in WAC 248-96-020, and by this reference made a part hereof, the following terms shall have the meaning indicated:

(1) "Developer" - Any person, or the heirs, successors, or assigns of such person, who owns and/or proposes or intends to develop a subdivision or multiple housing unit project designed to exceed the unit or population densities or flows set forth in WAC 248-96-070(1).

(2) "Purchaser" - Any person, or the heirs, successors or assigns of such person, who purchases and/or leases one or more units in a subdivision or multiple housing unit project from developer as herein defined.

(3) "Management" - Any person who forms and operates an on-site waste management system for the purposes of and under the provisions of these guidelines, or the heirs successors or assigns of such person.

B. Management - Eligible Persons: Management systems may be formed by a metropolitan municipal corporation operating a sewage utility; by an incorporated city or town operating a sewage utility; by a county government through the County Area Services Act (Chapter 36.94 RCW) or through any appropriate agency or department of county government; by a sewer district; or by a water or public utility district operating a sewer district. If no municipal agency is able or willing to operate such a management corporation, a special management corporation may be organized to serve as a management system subject to the special provisions of these guidelines.

C. Continuity: Once established, the management system must continue to function until all on-site sewage systems under its management have been abandoned and the dwelling units or other buildings served by such on-site systems have been connected to an approved sewerage system.

D. Existing Statutes, Rules and Regulations, etc. - Conflicts: The waste management system must be set up in conformance with existing statutes and the rules and regulations of any applicable regulatory agencies. Any portions of these guidelines in conflict with statutes limiting the authority of any management will not be applicable; however, management may be required to find a substitute for the non-applicable requirement.

E. Management System Contract: The management system shall operate through a contract between management and developer. The contract must contain, but need not be limited to, a complete description of all rights, duties, obligations, and commitments of management, developer, and purchaser; a description of all maintenance and operations requirements; and, otherwise, all of the elements set forth in these guidelines.

The contract must provide:

- (1) Agreement by management to provide maintenance and operation of on-site sewerage systems, provide surveillance of functioning of on-site sewerage systems, keep records, collect fees, disburse funds, and perform all other duties set forth in these guidelines as are assigned to management.
- (2) Agreement by developer that, when selling or leasing property, as a condition of sale or lease he will require the contract of sale, property deed or lease to include a clause wherein the purchaser agrees to conform to the provisions of the management system contract.
- (3) That developer shall agree to provide each purchaser a full and complete copy of the management system contract prior to purchaser's signing of purchase contract.
- (4) That, in the event the developer retains possession of individual lots which contribute sewage to an on-site sewerage system, the developer's obligations will include those of a purchaser with respect to those individual lots.
- (5) Means of making amendments, additions, or deletions by Mutual Agreement of management, developer, and purchaser, and as approved by the local health officer and other applicable regulatory agencies.
- (6) The right of management to contract with public or private agencies for labor and other services.
- (7) That management shall employ competent personnel, as determined by the local health officer and other applicable regulatory agencies, familiar with the maintenance and operation of the types of on-site sewerage systems under its management.
- (8) An identification of the portion of the sewerage system for which management shall exercise responsibility (e.g., "commencing at the first point of connection to a treatment device," or "at a point two feet outside the structure being served").
- (9) A complete identification and definition of all rights of purchaser, management, and developer; and compliance with regulations of applicable regulatory agencies.
- (10) Establish a method for the transfer of authority to another entity, acceptable to the regulatory agencies in the event that such transfer is necessary.
- (11) Provision for allocation of restoration costs as required in Section I, Restoration.
- (12) Provision for purchaser's right to perform work, if such work is permitted by management.
- (13) The contract shall clearly state that in the event the properties are connected to an alternate sewage disposal system, the costs of such connection, if any, shall be the obligation of the property owner.

F. Financial Solvency: Management shall assure financial solvency of its management responsibilities. Financial arrangements shall include, but not be limited to the following considerations:

- (1) An accounting and audit system in accordance with any applicable statutes.
- (2) A standard maintenance and operation fee.
- (3) Fees for initial installation of on-site sewerage systems.
- (4) Establishment of an emergency fund.
- (5) Preparation of a rate structure for various services that may be entailed beyond routine operation and maintenance due to variations in on-site sewerage systems being serviced.
- (6) Permit billing purchaser for any routine repair work, replacement, emergency work or modifications undertaken on behalf of purchaser's installation to cover costs of materials and labor, and other valid associated costs.
- (7) Establishment of a method of rate adjustment to maintain adequate funds. Rates shall be reviewed annually and adjusted accordingly.
- (8) Provide for the collection of delinquent payments through property lien or other acceptable method.
- (9) Establishment of a method of final disbursement of funds on hand and collectable at such time as the management system is dissolved.

(10) Establishment of a method of transfer of funds at such time as the management responsibilities are transferred.

(11) Assurance that adequate operation and maintenance funds are available from the initiation of sewage system operation.

G. Maintenance and Operation - Management and Purchaser: A maintenance and operation manual, specifically suited to the nature of the on-site sewerage system for which management will be responsible, shall be prepared. A copy of the manual shall be submitted to the local health officer and other applicable regulatory agencies. The manual shall include, but need not be limited to, schedules and/or procedures for the following items.

- (1) Periodic inspection of facilities to ascertain efficiency of operation and general condition of equipment.
- (2) Record keeping of inspections, monitoring, work done, conditions found, etc. Records shall be available for inspection by the regulatory agencies.
- (3) Periodic pumping of septic tanks or other storage tanks by licensed septic tank pumpers.
- (4) Periodic maintenance of motors, pumps, etc.
- (5) Replacement or repair of worn or damaged equipment.
- (6) Responding to emergencies. Emergency procedures shall include provisions for:

(a) Notifying users and applicable regulatory agencies of the emergency.

(b) Determining cause of any major breakdown or of any essentially complete failure of any on-site sewerage system to function as designed. The findings shall be submitted in writing to the applicable regulatory agencies.

(c) Making repairs or replacements or modifications of design as required to restore functioning of system.

(d) Working with purchaser and regulatory agency to prepare and install substitute system, in the event of irreparable failure of system to meet design requirements.

(7) Annual reporting of system maintenance and operation to applicable regulatory agencies.

H. Right to Enter on Purchaser's Property: Management shall have the right to enter upon purchaser's property to perform routine inspections or work and to respond to emergency conditions.

I. Restoration: Whenever work is performed by management on purchaser's property, management shall restore all paving, planting, and other features of purchaser's property to its original condition as nearly as possible. Provision for allocation of restoration costs shall be included in the management contract.

J. Purchaser's Right to Perform Work: Except in the event of an emergency

that demands immediate action, upon notification to the management by the purchaser, management may permit purchaser to perform repairs, replacements, and other work other than routine maintenance and operation on those portions of the sewerage system located on purchaser's property. If management permits such work by purchaser, it shall be provided for in the management contract, and shall be performed under the following conditions:

(1) Design, materials, work to be performed, and time for completion shall be as directed by management, and shall comply with local health department and other applicable local regulations.

(2) Cost of labor and materials shall be borne by purchaser.

(3) Completed work shall be inspected and approved in writing by management before being placed in service.

(4) Management may correct any improper construction performed by purchaser or require purchaser to make such corrections, and may complete any work not finished by purchaser within the time limit set by management, and may bill purchaser for all labor and materials.

(5) Management shall enter such work into the maintenance and operation record.

K. Special Management Corporation: In the event no municipal corporation, as identified in Section B., is able or willing to serve in a management capacity and has indicated this decision in writing, a special private corporation may be established to serve this purpose.

(1) Structure and Criteria - In addition to meeting the foregoing criteria and requirements, such a corporation must meet the following conditions:

- (a) It must be incorporated.
- (b) It must have elected officers.
- (c) It must have a constitution and by-laws.
- (d) There must be financial solvency on a continuous basis through a method of financing construction, maintenance, operation and emergency work related to the sewerage system to the exclusion or whatever other obligations the corporation may assume in other fields. Rates must be set at a level which will provide ample funds for all sewerage operation and maintenance costs and cover emergencies as they occur.
- (e) There must be permanency; i.e., the corporation must be continuously in operation with regard to its sewerage activities so long as there is a need for such management service. There must be built into the organization a provision to eventually transfer its sewerage responsibilities to a municipal corporation, as identified in Section B, should such a transfer become feasible.
- (f) There must be a municipal corporation, as identified in Section B., to whom control and operation of the management corporation will pass in trusteeship in the event that no persons are willing to serve as officers of the corporation. In the event that no municipal corporation is able or willing to serve as a trustee,

a private organization, acceptable to the regulatory agencies, may serve in this capacity. The municipal corporation or the private organization shall have the opportunity to review and comment on plans and specifications and perform inspections during construction. They shall also be notified of any future construction or major repairs.

- (g) Funds collected for sewerage purposes must be kept in an account to be used for the sole purpose of carrying out the functions of the sewerage management system.
- (h) There shall be lien powers to assure the collection of delinquent sewerage debts, and provisions for adjustment of rates from time to time to meet the costs of operation.
- (1) In the event the corporation is initially run by a board of trustees, provision should be made for an election of corporate officers at the first annual meeting and transfer of control from the initial trustees to the newly elected board of trustees or corporate officers. Membership of these groups shall be from among the residents of the community served.
- (1) Elections may be delayed beyond the first annual meeting until at least some stated number of voters are actually resident in the community.
- (2) The intent of this subsection is to assure control of the management system passing to the residents of the community as soon as possible.

(j) There must be assurance of good communication between the corporate leadership and the resident population. There must be adequate notice of meetings, positive service of such notice, and meetings must be held at times and places convenient to the residents and adequate space provided.

(k) A review board shall be established. The responsibilities of the review board shall include mediation and review of appeals regarding disputes arising on any matter relating to the relationship between purchaser and management. Decisions of the review board shall be final and binding on all parties involved.

(2) Implementation - The implementation of the special management corporation shall include, but need not be limited to, the following considerations.

(a) The developer shall assume complete responsibility for financing and managing the operation of the on-site sewage disposal systems during the period of development prior to transfer of the management responsibilities to the special management corporation.

(b) During the period of developer involvement with the on-site sewage disposal systems, there shall be an entity, as defined in subsection 1.f above, to whom control and operation of the systems will pass in trusteeship in the event that the developer becomes unable to meet his responsibilities.

(c) A two year performance bond, of an amount adequate to provide operation and management for that period, and in favor of the

entity identified in (b) above or another entity acceptable to the regulatory agencies, shall be posted by the developer.

(d) A method of transfer of the management functions from the developer to the special management corporation shall be provided. Transfer of the management functions shall be completed within two years, unless otherwise authorized by the approval authority.

L. Approval of Management Systems: All management systems that are proposed for specific developments must be reviewed and approved by the health officer and where necessary, by the Department of Ecology and/or the Department of Social and Health Services. If special services, such as financial review by a Certified Public Accountant, are required in the review of a management system by the health officer, the cost of such services shall be borne by the developer. Approval will take into consideration the size of the development and the extent to which the management system conforms to the requirements of any existing comprehensive land use plan for the jurisdictional area involved.

PROPERTY OWNER MANAGEMENT
AGENCY AGREEMENT

GRANT AND AGREEMENT

I/We hereby grant to GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT the right to maintain, operate and repair the sewage disposal facility situate upon Lot..... Auburn Lake Trails Subdivision Unit No. El Dorado County, California as shown on that map recorded in Book..... of Maps, at Page..... El Dorado County Records, upon its completion to the satisfaction of said District.

I/We agree to observe all of said Districts rules, regulations, and ordinances heretofore and hereinafter enacted, and pay all of said Districts charges including, but not limited to, charges incurred by the District for modifications required by said rules, regulations, and ordinances, which I/We fail to make as so required.

I/We further agree that this grant and agreement shall be binding upon all of my, our successors and assigns of said lot.

I/We further agree that this grant and agreement shall not obligate said District in itself to maintenance, operation or repair of said sewage disposal system.

DATED:..... SIGNED:.....

Signatures of the owners of the lot, trustees or beneficiaries under any deed of trust are required.

STATE OF CALIFORNIA }
COUNTY OF ss.

On..... before me, the undersigned, a notary public in and for said county and state, personally appeared.....

Known to me to be the person whose name is/are subscribed to the within instrument and acknowledged that he they executed the same.
WITNESS my hand and official seal.

NOTARY PUBLIC IN AND FOR THE COUNTY OF.....
STATE OF CALIFORNIA

SECTION III-2

SERVICE AGREEMENTS

The U.S. EPA would prefer that a community applying for a construction grant for a small wastewater system project obtain ownership of the system prior to applying for Step 2 funds. EPA's regulations allow life-of-project easements or covenants as an alternative to actual public ownership to qualify systems for construction grant funding. Easements and service agreements offer an attractive means of providing clearer access to the wastewater system to ensure necessary inspection, maintenance, and repair activities. Service agreements and easements also provide a convenient method for providing management functions where full public ownership or special state enabling legislation is not feasible or available.

Two basic types of service agreements are provided:

1. Homeowner (property owner or customer) agreement with the management agency for services.
2. Management agency agreement with a local government.

Readers are encouraged to review the handbook prepared by the U.S. Department of Housing and Urban Development, Central Water and Sewage Systems (Ownership and Organization), 4075.12 revised August 1976. This handbook provides sample ordinances and agreements for preparing third party agreements, trust deeds, and beneficiary contracts for management of publicly- and privately-owned wastewater systems. Brief descriptions of these legal mechanisms are also included.

MANAGEMENT AGENCY/LOCAL GOVERNMENT
AGREEMENT

SERVICE AGREEMENT BETWEEN
NATURAL RESOURCES CONSERVATION DISTRICTS
AND THE TOWN OF _____

This agreement itemizes the responsibilities of the Town and of the Natural Resources Conservation District in carrying out the On-Site Sewage Disposal Program. This program formulated to give towns and individuals technical assistance on on-site sewage installation.

Town Responsibilities

1. The Town shall establish a Health Regulation and/or an ordinance to require inspection of each proposed on-site sewage disposal system prior to issuance of a permit. The Health Regulations must conform to the minimum recommended Health Regulations, sub chapter 10, Part II, Waste Water Treatment and Disposal - Individual On-Site Systems as adopted July 29, 1977. A town may wish to modify this proposed regulation for their own particular needs before final approval by the State Health Board and adopt this under Title 18, VSA, Sec. 613 or adopt a local bylaw which in most cases may be adopted under Chapter 9, Title 24 of Vermont Statutes Annotated. An acceptable amended copy is attached.
2. The Town shall request the services of the District Sanitary Specialist and participation in the program.
3. The Town shall receive all applications for permits and collect any fees that may be assessed. The Town will pay \$50.00 per job upon receipt of initial application.
4. The Town notifies the District of services needed by individuals.
5. The local Board of Health or its duly appointed agent shall review applications and notify District, the Specialist and the individual of action taken.
6. The local Board of Health or its duly appointed agent shall review installation reports from the Specialist and notify District and individual of certification of installation or corrective measures needed.
7. The Town shall be responsible for all enforcement and legal actions.

Natural Resources Conservation District Responsibilities

1. Furnish a trained Specialist to assist individuals in towns that are participating in the On-Site Sewage Disposal Program.
2. The Sanitary Specialist will inspect and report on each individual site application submitted to the District by town officials, prior to issuance of a Town Permit.
3. The Sanitary Specialist provides planning assistance to individuals including soils and site information and engineering design criteria or specific site design based on prearranged work schedules with the Applicant or his agent.
4. The Sanitary Specialist conducts on-site checks of installation before covered with earth fill and prepares and submits written report on each installation to the local Board of Health or its duly appointed agent, the District and the Applicant.
5. The Sanitary Specialist will conduct maintenance or operational checks of existing septic systems that are exposed and accessible as workload permits.
6. The Sanitary Specialist will assist with general education workshops for contractors, health officers, municipal officials, agency representatives and individuals as workload and time permits.

Other

Neither the district nor the landowner nor the town nor the specialist will be liable for damage to the other's property or personal injury resulting from the carrying out of this agreement.

This agreement will remain in effect until terminated in writing by either party.

Town Officials		District Officials	
<hr/>		<hr/>	
Date	<hr/>	Date	<hr/>

LEGAL MECHANISMS TO GUARANTEE PERMANENT MANAGEMENT OF
PRIVATELY-OWNED COMMUNITY WASTEWATER SYSTEMS

TRUST DEED

The trust deed is an instrument by which the owner legally conveys the system to a third party (the trustee), who, on behalf of the consumers, has the authority to take possession in the event the corporation fails to operate the system in accordance with the provisions of the trust deed regarding reasonable rates and continued satisfactory service.

The trustee should preferably be a governmental authority. An established community utility, approved mortgagee, or a title company would also be acceptable. If a trustee other than a unit of local government or an approved mortgagee is proposed, it will be necessary to determine that there is no identity-of-interest between the owners of the system and the trustee.

The trust deed also contains a provision for arbitration in the event differences of opinion arise over a need for changes in the service charges. This provision also includes an equitable method for determining the amount of a rate increase or decrease where such change is found to be justified.

THIRD PARTY BENEFICIARY CONTRACT

The basic difference between the trust deed and the third party beneficiary contract is that the former conveys legal title of the system to the trustee, whereas the latter creates a covenant running with the land giving each homeowner and the representative the right to commence suit for defaults in operation or unreasonably increased rates. The owner corporation agrees to perform satisfactory service at reasonable rates. The instrument provides that any person whom the agreement benefits may petition a court of competent jurisdiction to appoint a receiver for the purpose of operating the system in the event the owner does not provide service. The instrument also includes an arbitration clause similar to that in the trust deed for the adjustment of service rates.

FRANCHISES FROM GOVERNMENTAL AUTHORITIES

Privately-owned water and sewage systems can be operated under a franchise from a unit of government having franchising powers granted by state statutes.

The provisions of any franchise will have to assume control by the franchising authority of the quality of service as long as the use of the utility is necessary. If the initial term of the franchise is considered too short, it will have to be coupled with options to extend the term.

It is also necessary to include in the franchise a provision for controlling the service charges, and a provision for continued operation in the event service is unsatisfactory.

Note: For additional information on these topics (including sample deeds and contracts), see the HUD publication (reference No. 8) listed in the bibliography (Section III-3).

SECTION III-3
BIBLIOGRAPHY

Listed in the bibliography are several key documents that contain valuable information on institutional and management issues for small wastewater systems.

BIBLIOGRAPHY

1. Interim Study Report, Management of On-Site and Small Community Wastewater Systems, EPA/6687, U.S. Environmental Protection Agency, Municipal Environmental Research Laboratory, Prepared by Roy F. Weston, Inc., West Chester, Pennsylvania, November 1979.
2. A Strategy for Small Alternative Wastewater Systems, EPA Office of Water Program Operations, December 1980.
3. Planning Wastewater Management Facilities for Small Communities, EPA/600-80-030, U.S. Environmental Protection Agency, Municipal Environmental Research Laboratory, Prepared by Urban Systems Research and Engineering, Cambridge, Massachusetts, August 1980.
4. Small Wastewater Systems: Alternative Systems for Small Communities and Rural Areas, U.S. Environmental Protection Agency, Washington, DC, January 1980.
5. Community-Managed Septic Systems - A Viable Alternative to Sewage Treatment Plants, Report to the Congress by the Comptroller General of the United States, United States General Accounting Office, 3 November 1978.
6. Design Manual -- On-Site Wastewater Treatment and Disposal Systems, EPA 625/1-80-012, EPA Office of Water Program Operations, Municipal Environmental Research Laboratory, Office of Research and Development, October 1980.
7. Individual On-Site Wastewater Systems, Volumes 1 through 7, Edited by Nina J. McClelland, National Sanitation Foundation, Ann Arbor, Michigan.
8. Central Water and Sewage Systems (Ownership and Organization, 4075.12 Revised, U.S. Department of Housing and Urban Development, Washington, DC, August 1976.